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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

In re: Investigation of  
Kambiz Youabian

No. 2:22-MJ-3238

[PROPOSED] PROTECTIVE ORDER  
REGARDING DISCOVERY CONTAINING  
PERSONAL IDENTIFYING INFORMATION

The Court has read and considered the parties' Stipulation for a Protective Order Regarding Discovery Containing Personal Identifying Information ("PII") filed by the government and Kambiz Youabian ("Youabian" or "the target"), which this Court incorporates by reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as follows:

6. The government is investigating Youabian for potential violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), 1028A (aggravated identity theft), 1956 (money laundering), and 1349 (conspiracy to commit mail and wire fraud) ("Target Offenses"). The government wishes to produce pre-indictment discovery to Youabian.

1           7. A Protective Order is necessary because the government  
2 intends to produce to the defense materials potentially containing  
3 third parties' PII. The government believes that disclosure of this  
4 information without limitation risks the privacy and security of the  
5 information's legitimate owners. Because the government has an  
6 ongoing obligation to protect third parties' PII, the government  
7 cannot produce to the target an unredacted set of discovery  
8 containing this information without the Court entering the  
9 Protective Order. Moreover, PII makes up a significant part of the  
10 discovery in this case and such information itself, in many  
11 instances, has evidentiary value. If the government were to attempt  
12 to redact all this information in strict compliance with Federal  
13 Rule of Criminal Procedure 49.1, the Central District of  
14 California's Local Rules regarding redaction, and the Privacy Policy  
15 of the United States Judicial Conference, the defense would receive  
16 a set of discovery that would be highly confusing and difficult to  
17 understand, and it would be challenging for defense counsel to  
18 adequately evaluate the case, provide advice to the target, or  
19 prepare for trial.

20           8. The purpose of the Protective Order is to (a) allow the  
21 government to comply with its discovery obligations while protecting  
22 this sensitive information from unauthorized dissemination, and  
23 (b) provide the defense with sufficient information to adequately  
24 represent the target.

25           9. Accordingly, the discovery that the government will  
26 provide to defense counsel in the above-captioned case will be  
27 subject to this Protective Order, as follows:  
28

1           1. As used herein, "PII Materials" includes any  
2 information that can be used to identify a person, including a name,  
3 address, date of birth, Social Security number, driver's license  
4 number, telephone number, account number, email address, or personal  
5 identification number.

6           2. "Confidential Information" refers to any document or  
7 information containing PII Materials that the government produces to  
8 the defense pursuant to this Protective Order and any copies  
9 thereof.

10           3. "Defense Team" includes (1) the target's counsel of  
11 record ("defense counsel"); (2) other attorneys at defense counsel's  
12 law firm who may be consulted regarding case strategy in this case;  
13 (3) defense investigators who are assisting defense counsel with  
14 this case; (4) retained experts or potential experts; and  
15 (5) paralegals, legal assistants, and other support staff to defense  
16 counsel who are providing assistance on this case. The Defense Team  
17 does not include the target, the target's family members, or any  
18 other associates of the target.

19           4. The government is authorized to provide defense  
20 counsel with Confidential Information marked with the following  
21 legend, "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE  
22 ORDER," or otherwise denoted as subject to the protective order in  
23 the discovery index. The government may put that legend on the  
24 digital medium (such as DVD or hard drive) or simply label a digital  
25 folder on the digital medium to cover the content of that digital  
26 folder. The government may also redact any PII contained in the  
27 production of Confidential Information.

1           5. If the target objects to a designation that material  
2 contains Confidential Information, the parties shall meet and  
3 confer. If the parties cannot reach an agreement regarding the  
4 target's objection, the target may apply to this Court to have the  
5 designation removed.

6           6. The target and the Defense Team shall use the  
7 Confidential Information solely to prepare for any pretrial motions,  
8 plea negotiations, trial, and sentencing hearing in this case, as  
9 well as any appellate and post-conviction proceedings.

10           7. The Defense Team shall not permit anyone other than  
11 the Defense Team to have possession of Confidential Information,  
12 including the target, while outside the presence of the Defense  
13 Team.

14           8. At no time, under no circumstance, will any  
15 Confidential Information be left in the possession, custody, or  
16 control of the target, regardless of the target's custody status.

17           9. The target may review PII Materials only in the  
18 presence of a member of the Defense Team, who shall ensure that the  
19 target is never left alone with any PII Materials. At the conclusion  
20 of any meeting with the target at which the target is permitted to  
21 view PII Materials, the target must return any PII Materials to the  
22 Defense Team, and the member of the Defense Team present shall take  
23 all such materials with him or her. The target may not take any PII  
24 Materials out of the room in which the target is meeting with the  
25 Defense Team.

26           10. The target may see and review Confidential  
27 Information as permitted by this Protective Order, but the target  
28 may not copy, keep, maintain, or otherwise possess any Confidential

1 Information in this case at any time. The target also may not write  
2 down or memorialize any name, social security number, date of birth,  
3 address, financial account number, or other means of identification  
4 or personal identifying information contained in the Confidential  
5 Information.

6           11. The Defense Team may review Confidential Information  
7 with a witness or potential witness in this case, including the  
8 target. A member of the Defense Team must be present if PII  
9 Materials are being shown to a witness or potential witness. Before  
10 being shown any portion of Confidential Information, however, any  
11 witness or potential witness must be informed of, and agree in  
12 writing to be bound by, the requirements of the Protective Order. No  
13 member of the Defense Team shall permit a witness or potential  
14 witness to retain Confidential Information or any notes generated  
15 from Confidential Information.

16           12. The Defense Team shall maintain Confidential  
17 Information safely and securely, and shall exercise reasonable care  
18 in ensuring the confidentiality of those materials by (1) not  
19 permitting anyone other than members of the Defense Team, the  
20 target, witnesses, and potential witnesses, as restricted above, to  
21 see Confidential Information; (2) not divulging to anyone other than  
22 members of the Defense Team, the target, witnesses, and potential  
23 witnesses, the contents of Confidential Information; and (3) not  
24 permitting Confidential Information to be outside the Defense Team's  
25 offices, homes, vehicles, or personal presence.

26           13. To the extent that the target, the Defense Team,  
27 witnesses, or potential witnesses create notes that contain, in  
28 whole or in part, Confidential Information, or to the extent that

1 copies are made for authorized use by members of the Defense Team,  
2 such notes, copies, or reproductions become Confidential Information  
3 subject to the Protective Order and must be handled in accordance  
4 with the terms of the Protective Order.

5           14. The Defense Team shall use Confidential Information  
6 only for the litigation of this matter and for no other purpose.  
7 Litigation of this matter includes any appeal filed by the target  
8 and any motion filed by the target pursuant to 28 U.S.C. § 2255. In  
9 the event that a party needs to file Confidential Information with  
10 the Court or divulge the contents of Confidential Information in  
11 court filings, the filing should be made under seal. If the Court  
12 rejects the request to file such information under seal, the party  
13 seeking to file such information publicly shall provide advance  
14 written notice to the other party to afford such party an  
15 opportunity to object or otherwise respond to such intention. If the  
16 other party does not object to the proposed filing, the party  
17 seeking to file such information shall redact any PII Materials and  
18 make all reasonable attempts to limit the divulging of PII  
19 Materials.

20           15. Any Confidential Information inadvertently produced  
21 in the course of discovery prior to entry of the Protective Order  
22 shall be subject to the terms of this Protective Order. If  
23 Confidential Information was inadvertently produced prior to entry  
24 of the Protective Order without being marked "CONFIDENTIAL  
25 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," or otherwise  
26 being denoted as subject to the protective order on the discovery  
27 index, the government shall reproduce the material with the correct  
28 designation and notify defense counsel of the error. The Defense

1 Team shall take immediate steps to destroy the unmarked material,  
2 including any copies.

3           16. Confidential Information shall not be used by any  
4 member of the defense team, in any way, in any other matter, absent  
5 an order by this Court. All materials designated subject to the  
6 Protective Order maintained in the Defense Team's files shall remain  
7 subject to the Protective Order unless and until such order is  
8 modified by this Court. Upon request by the government, defense  
9 counsel shall return all PII Materials, certify that such materials  
10 have been destroyed, or certify that such materials are being kept  
11 pursuant to the California Business and Professions Code and the  
12 California Rules of Professional Conduct.

13           17. In the event that there is a substitution of counsel  
14 prior to when such documents must be returned, new defense counsel  
15 must be informed of, and agree in writing to be bound by, the  
16 requirements of the Protective Order before defense counsel  
17 transfers any Confidential Information to the new defense counsel.  
18 New defense counsel's written agreement to be bound by the terms of  
19 the Protective Order must be returned to the Assistant U.S. Attorney  
20 assigned to the case. New defense counsel then will become the  
21 Defense Team's custodian of materials designated subject to the  
22 Protective Order and shall then become responsible, upon the  
23 conclusion of appellate and post-conviction proceedings, for:

24 (1) returning to the government, certifying the destruction of, or  
25 retaining pursuant to the California Business and Professions Code  
26 and the California Rules of Professional Conduct all PII Materials.

27           18. Defense counsel shall advise the target and all  
28 members of the Defense Team of their obligations under the

1 Protective Order and ensure their agreement to follow the Protective  
2 Order, prior to providing the target and members of the Defense Team  
3 with access to any materials subject to the Protective Order.

4 19. The parties reserve the right to assert objections to  
5 this protective order if, and when, an indictment is returned and  
6 this matter is assigned to a United States District Judge. The terms  
7 of this Protective Order shall remain in effect unless, and until,  
8 any such terms are altered upon a ruling by the assigned United  
9 States District Judge.

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11 IT IS SO ORDERED.

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13 \_\_\_\_\_  
DATE

\_\_\_\_\_  
HONORABLE  
UNITED STATES MAGISTRATE JUDGE

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15 Presented by:

16 /s/ Gregory Bernstein  
17 Gregory Bernstein  
Assistant United States Attorney  
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